



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

JG:RB  
F.#2010R00826

271 Cadman Plaza East  
Brooklyn, New York 11201

March 25, 2011

By Hand Delivery and ECF

Magistrate Judge James L. Orenstein  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Kenneth Marsh et al.  
Criminal Docket No. 10 CR 480 (JBW)

Dear Judge Orenstein:

Pursuant to the Court's order, the government respectfully writes to (i) inform the Court that it opposes the continued use of any seized funds that are proceeds of the crimes charged in the above-captioned case – i.e., the so-called “carve-out” money – to fund the defendant's defense, and (ii) set forth a proposed briefing schedule for motions on the issues Your Honor identified at the March 18, 2011 status conference before this Court and Judge Weinstein.

Defense counsel has informed the government that the defendant intends to file motions arguing that (i) the carve-out money may properly be used to fund the defense under United States v. Monsanto, 491 U.S. 600 (1989), and (ii) irrespective of Monsanto, the defendant is entitled to the carve-out funds. Defense counsel informed the government that the earliest date it can file such motions is April 4, 2011.

Given that date as the earliest starting point, the

parties jointly propose that the government respond on April 11, 2011 and that the defendant reply on April 15, 2011.

Respectfully submitted,

LORETTA E. LYNCH  
United States Attorney

By:                     /s/                      
Roger Burlingame  
Assistant U.S. Attorney  
(718) 254-6422

cc: Alan Futerfas, Esq.  
Michael Padden, Esq.